



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

March 2, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-1010-0002-6364-4577  
RETURN RECEIPT REQUESTED

Max Chapman, Owner  
Brooks Lake Lodge, LLC  
458 Brooks Lake Road  
Dubois, Wyoming 82513

Re: Administrative Order  
Docket No. **SDWA-08-2004-0013**  
Brooks Lake Lodge  
PWS ID #5601400

Dear Mr. Chapman:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. and its implementing regulations. Among other things, the Administrative Order finds that Brooks Lake Lodge is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.21(b), 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to collect a set of repeat total coliform samples after a routine total coliform positive sample; failure to collect five additional total coliform samples the month following a total coliform positive sample; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If Brooks Lake Lodge complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the District to comply.

Among other things, the Order calls for you to provide a public notification for certain monitoring requirements that were



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not met. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Jackson Naftel of EPA, whose telephone number is provided below.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Jackson Naftel at the address on the letterhead, including the mailcode 8ENF-W, or you may call Mr. Naftel at (800)227-8917, extension 6362, or (303) 312-6362. If you wish to have an informal conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney please feel free to have your attorney call Amy Swanson, Enforcement Attorney, at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
Public Notice Template  
SBREFA

cc: Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH  
Jinifer Ables, Brooks Lake Lodge PWS Operator  
Jennifer Watson, Shoshone National Forest



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>**

**March 2, 2004**

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Fremont County Commissioners  
c/o Douglas Thomson, Chair  
450 North Second Street  
Lander, Wyoming 82520

Re: Notice of Safe Drinking Water  
Act Enforcement Action against  
Brooks Lake Lodge, LLC  
PWS ID #WY5601400

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Brooks Lake Lodge, located in Dubois, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.21, 141.21(b), 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to collect a set of repeat total coliform samples after a routine total coliform positive sample; failure to collect five additional total coliform samples the month following a total coliform positive sample; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Jackson Naftel at (303) 312-6362.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure



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IN THE MATTER OF )  
Max Chapman, Owner )  
Brooks Lake Lodge, LLC )  
Dubois, Wyoming )  
Respondent )  
ADMINISTRATIVE ORDER  
Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) ) Docket No. **SDWA-08-2004-0013**

## FINDINGS

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3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an August 8, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by ground water consisting of one spring. The System serves approximately 46 persons daily, during its operational season, which according to EPA records consists of the 1<sup>st</sup> (January-March) quarter, 3<sup>rd</sup> (July-September) quarter and 4<sup>th</sup> (October-December) quarter.



## FINDINGS OF VIOLATION

### I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter that the system is serving the public to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 4<sup>th</sup> (October-December) quarter 2000 and the 3<sup>rd</sup> (July-September) quarter in 2002, in violation of 40 C.F.R. § 141.21.

### II.

1. 40 C.F.R. §141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples for the July 2003 total coliform positive routine sample, in violation of 40 C.F.R. § 141.21(b).

### III.



1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive sample(s) to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in August 2003 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

#### IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations, including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the 4<sup>th</sup> quarter 2000 failure to monitor violation and the August 2003 failure to collect 5 routine samples violation detailed in the preceding Sections I and III in violation of 40 C.F.R. § 141.201.

#### V.





1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections I, II and III in violation of 40 C.F.R. § 141.21(g) (2).

V.

1. 40 C.F.R. § 141.31(b) requires that public water systems shall report any failure to comply with the NPDWRs to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Section IV, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R.



§ 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. §141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. §141.31(a).



3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive sample(s) in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. No later than thirty days from the date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205. Specifically, Respondent must provide public notice of the failure to monitor for contamination by total coliform bacteria in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by



the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers, use of E-mail to notify employees or students, or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

Jackson Naftel



U. S. EPA Region 8 (8ENF-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject Respondent to an administrative civil penalty of up to \$25,000 under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a U.S. District Court, under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S.



District Court, under Section 1414 (b) of the Act, 42  
U.S.C. § 300g-3 (b) .



4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 2<sup>ND</sup> day of March, 2004.

David J. Janik

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

SIGNED

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU LIKE COPIES OF THE ATTACHMENTS PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MARCH 2, 2004.**



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